

EXHIBIT “A”

(3 of 3)

1 Q. Okay. How long in total do you think
2 you were at the crash site?
3 A. Probably an hour.
4 Q. Did you attempt to render any medical
5 aid to my client?
6 A. Other than asking him if he was okay,
7 did he want water, no.
8 Q. Do you believe on the day of the wreck
9 you were acting as safely as possible in your
10 operation of CMV?
11 A. Yes.
12 Q. Okay. Think back to the day. What, if
13 anything, could you have done differently on
14 that day or days prior to the wreck that may
15 have avoided the wreck entirely?
16 A. Nothing.
17 Q. Do you agree that it would have been
18 reasonable for someone in your position to
19 reduce their speed on the day of the accident
20 given the snowy conditions?
21 A. No. I drove at the speed I felt was
22 comfortable for the conditions.
23 Q. Do you have any opinion as to what
24 actual speed you were going -- miles per hour
25 -- at the time of the collision?

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1 A. Yes.
2 Q. Yes we can agree that that is not what
3 caused the accident?
4 A. Yeah, that is not what caused the
5 accident.
6 Q. Okay. Can we agree that you didn't have
7 an extreme blunder that doesn't fit into
8 anything that I just explained which caused the
9 accident?
10 A. No.
11 Q. Is that because extreme blunder doesn't
12 make sense to you?
13 A. Yeah.
14 Q. Can we agree that there was no sudden
15 emergency that occurred in your cab that
16 resulted in the accident?
17 A. Correct.
18 Q. Okay. Can you tell me if you made it to
19 Newport, Michigan by 4:00 a.m. on January 21st?
20 A. No. After my tractor and the trailer
21 was towed, I got a hotel room, and I was given
22 a new tractor. I don't think I know what
23 happened with that load after that.
24 Q. Did someone come and cover your load?
25 A. More than likely.

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1 A. No. I was not staring at my
2 speedometer.
3 Q. Could you estimate?
4 A. No.
5 Q. Do you admit that you had the last clear
6 chance to avoid the wreck?
7 A. No.
8 Q. Do you admit you could not see 450 feet
9 ahead of you in the two minutes before the
10 collision?
11 A. Are you asking me if the skies were
12 clear and I was capable of seeing him, yeah I
13 could see.
14 Q. Okay. We talked about your cell phone;
15 we talked about Bluetooth. Can we agree that
16 the accident didn't occur because you were
17 distracted?
18 A. Yes.
19 Q. Can we agree that the accident didn't
20 occur because you were aggressively driving?
21 A. Yes.
22 Q. Can we agree that the accident didn't
23 occur because of your incompetency? Meaning
24 that you didn't know how to respond to a
25 situation such as that.

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Latimer Reporting "402-476-1153" latimer@latimer-reporting.com



1 MS. BENHAMOU: I have no further
2 questions for you right now.
3 MS. ELI: All right. Kiara, I
4 have a bit to go through with you. I'm going
5 to ask for a break just so that I'm sure I can
6 cover everything. So just five minutes just so
7 I can make sure I have everything that I need
8 to cover.
9 MS. BENHAMOU: Take your time.
10 (A brief recess was taken
11 at this time.)
12 MS. ELI: I'm ready to go back
13 on the record if you are.
14 MS. BENHAMOU: Sure.
15 CROSS-EXAMINATION
16 BY MS. ELI:
17 Q. All right. Kiara, I have some stuff I
18 want to go through with you just to make sure
19 we have a clean record of it. Now, the load
20 that you had been carrying, the final
21 destination was for Newport, Michigan, correct?
22 A. Yes.
23 Q. When you had stopped at Urbana, did you
24 pick up material, or did you drop off material
25 in Urbana?

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Latimer Reporting "402-476-1153" latimer@latimer-reporting.com



1 A. I dropped off material at Urbana.
 2 Q. Okay. But not all of the material you
 3 had, correct?
 4 A. Correct.
 5 Q. That means that when you were traveling
 6 to Newport, Michigan, you didn't have a full
 7 truck, correct?
 8 A. Correct.
 9 Q. That means you would have been operating
 10 at a lighter load at that point, correct?
 11 A. Correct.
 12 Q. We indicated earlier that the maximum
 13 that a truck is allowed to weigh total is
 14 80,000 pounds, correct?
 15 A. Correct.
 16 Q. Is it safe to say, then, that you were
 17 operating at less than that 80,000?
 18 A. Yes.
 19 Q. Would we have to look at your Bills of
 20 Lading in order to determine the exact mass of
 21 everything that you were carrying?
 22 A. Yes.
 23 Q. Okay. Are Bills of Lading something
 24 that you are familiar with reading, or is that
 25 something we can leave to the corporate

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1 and then let up for a few, and then hit for
 2 another five seconds, and then let up for a few
 3 seconds --
 4 Q. Okay.
 5 A. -- hit for five seconds.
 6 Q. So do you think you hit the brake four
 7 times?
 8 A. At least four times, yeah.
 9 Q. So you at least were 20 seconds until
 10 you caught up with him, is that accurate?
 11 A. Correct.
 12 Q. Were you behind him in that right lane
 13 the entire time?
 14 A. Not directly.
 15 Q. That was a bad question. From the time
 16 you saw him spin to the time of impact, did you
 17 leave the right lane?
 18 A. No.
 19 Q. Okay. Now, you indicated that when you
 20 initially spoke with Mr. Perez, he seemed a
 21 little bit out of it. Can you describe -- can
 22 you explain that a little bit more maybe as to
 23 what gave you the sense that maybe he had been
 24 out of it?
 25 A. Honestly just the look of him. I

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1 representative for K & B?
 2 A. I can read them, yes.
 3 Q. You can read them. Okay. I'll bring
 4 those out. Actually, you know what, it is
 5 okay, we don't need to go through that at this
 6 point.
 7 Kiara, you talked about when you saw
 8 Mr. Perez start to spin, that initial spin, you
 9 engaged in a practice of five seconds on, five
 10 seconds off on your brake, correct?
 11 A. Right.
 12 Q. Do you remember how many rounds you were
 13 able to do of that five seconds on, five
 14 seconds off?
 15 A. At least four.
 16 Q. At least four rounds before you caught
 17 up with him, correct?
 18 A. Correct.
 19 Q. So assuming you did four rounds of it,
 20 and each round is ten seconds total, is that
 21 accurate?
 22 A. Each compression of the brake is like
 23 five seconds, and then --
 24 Q. -- you stop for five seconds?
 25 A. No. I hit the brakes for five seconds,

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1 wouldn't say he could have been dazed, but to
 2 me, he just seemed more like a flighty,
 3 whimsical-type person.
 4 Q. Was his -- were his actions, would you
 5 categorize them as erratic?
 6 A. I think more along the lines of flighty.
 7 Like he is -- like he is thinking of something
 8 else rather than he wasn't just in the
 9 particular situation as it were.
 10 Q. Okay.
 11 A. Like he was mentally elsewhere while I
 12 had to draw his attention back to me or the
 13 situation with questions.
 14 Q. Got it. Do you know, did he give you
 15 any indication as to where he was heading that
 16 morning?
 17 A. No, and I did not ask.
 18 Q. So you don't know where he needed to be
 19 or what time he needed to be there?
 20 A. No.
 21 Q. Okay. Do you recall the police arriving
 22 on the scene?
 23 A. Yes.
 24 Q. And did you speak with the police?
 25 A. I did.

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1 Q. Did the police give you a police report
2 when they were all done?
3 A. No. He was a little bit short. He
4 didn't give me anything. He didn't give me his
5 name, badge number, anything like that. He
6 just took my report, and then that was it.
7 Q. Okay. Were you given any citations?
8 A. No.
9 Q. Do you know if Mr. Perez was given any
10 citations?
11 A. No.
12 MS. BENHAMOU: No you don't
13 know, or no he wasn't?
14 THE WITNESS: No, I don't know.
15 MS. BENHAMOU: Sorry.
16 Q. (By Ms. Eli) Kiara, are you familiar
17 with the police report that was created in this
18 case?
19 A. No.
20 Q. Okay. I'm going to show you what has
21 been previously marked as Perez, or what has
22 been previously produced as Perez, underscore,
23 K&B, Pages 1 and 2. It is a redacted version
24 of the Illinois Traffic Crash Report for you to
25 review. It is two pages. Will you just take a

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1 it, and then we can go through it.
2 A. All right.
3 MS. BENHAMOU: We are the only
4 ones that get to ask questions right now.
5 Q. (By Ms. Eli) Now, Kiara, when you look
6 at the second page of the report, there is a
7 map that appears to be drawn on the top
8 portion, correct?
9 A. Correct.
10 Q. Now, whether or not it is an accurate
11 map or not, I just want to go through the
12 description of this map before we discuss it.
13 How many lanes of traffic does that map depict?
14 A. Four.
15 Q. All right. And is your truck depicted
16 in this picture?
17 A. Yes.
18 Q. And what is it referred to as?
19 A. Is that a "D"?
20 Q. You know what, it is too tiny to tell so
21 let's just ignore that.
22 A. Okay.
23 Q. Is this an accurate depiction of the
24 lanes of traffic wherein the accident occurred?
25 A. No.

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1 look at that, please.
2 A. (Witness complies.)
3 Q. And show plaintiff's counsel as well
4 when you are done, please.
5 A. This (indicating) is a misspelling.
6 Q. What is misspelled?
7 A. My middle name.
8 Q. It starts with an "M," correct?
9 A. Right. That is a letter extra. Also,
10 the truck is wrong, the make of the truck. It
11 says Mack. I was driving a Freightliner
12 Cascadia.
13 MS. BENHAMOU: A Freightliner
14 Cascade?
15 THE WITNESS: Cascadia.
16 MS. BENHAMOU: How do you spell
17 that?
18 THE WITNESS: Freightliner?
19 MS. BENHAMOU: No, Cascadia.
20 THE WITNESS: C-A-S-C-I-D-A, I
21 think.
22 MS. BENHAMOU: Thank you.
23 THE WITNESS: So what is this?
24 Q. (By Ms. Eli) I can't answer any
25 questions for you. I just want you to review

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1 Q. And why not?
2 A. Well, if this is to be believed, I would
3 be in the cash lane at this point, and
4 Mr. Perez would be in the right lane. This
5 would put me still legally but not in the right
6 lane.
7 Q. Okay. Were there four lanes of traffic
8 in the portion that you and Mr. Perez were
9 driving after you had gone through the toll?
10 A. No.
11 Q. How many actual lanes of operable
12 traffic were there in that area?
13 A. I believe there was three.
14 Q. There were three that whole time?
15 A. No. It started out as two.
16 Q. Okay. So I'm talking about when you
17 first went through the tollway.
18 A. Okay, there was two.
19 Q. There were two.
20 Okay. Was there a shoulder lane on your
21 right side?
22 A. Yes.
23 Q. Was there also another shoulder on the
24 left if you would have seen it?
25 A. Yes.

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1 Q. So if you were to count the shoulders,
2 would then there have been four lanes?
3 A. Yes.
4 Q. Did you at any point prior to the impact
5 see Mr. Perez in that right-hand shoulder?
6 A. You mean here (indicating)?
7 Q. Well, I'm asking you, just in general,
8 did you ever see him in the right shoulder
9 prior to the impact?
10 A. No.
11 Q. Okay. Kiara, I'm going to show you the
12 exhibit that Mr. Perez created or from his
13 deposition that is Exhibit 1. Don't write or
14 anything on this, but I do want you to review
15 this image. Once you are done looking at it,
16 please show plaintiff's counsel, and then I'll
17 ask you questions about it.
18 A. Okay.
19 MS. BENHAMOU: I can see, thank
20 you.
21 Q. (By Ms. Eli) Kiara, is this a depiction
22 of that toll area with the four lanes of cash
23 on the right-hand side and the two lanes of the
24 open toll on the left-hand side?
25 A. Yes.

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1 ended up on the left-hand side of these two
2 lanes of traffic, correct?
3 A. Correct.
4 Q. The area in which he ended up, you
5 indicated that he stopped in that spot,
6 correct?
7 A. Correct.
8 Q. Did he come to a full stop?
9 A. Yes.
10 Q. And that area was on the left-hand side
11 of these two lanes of traffic, correct?
12 A. Correct.
13 Q. And that area from your recollection is
14 not depicted on this map, correct?
15 A. Correct.
16 Q. Would it have been further down the
17 road?
18 A. Yes.
19 Q. Okay. So outside the scope of this map,
20 correct?
21 A. Correct.
22 Q. If I were to -- strike that.
23 After you and Mr. Perez collided, did
24 his vehicle come at a rest that would have been
25 past that initial shoulder, left-shoulder stop

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1 Q. And had you gone through that open toll
2 that is on the right-hand side -- sorry, on the
3 left-hand side?
4 A. Yes.
5 Q. And that has the two lanes, correct?
6 A. Correct.
7 Q. Okay. Now, you indicated that when
8 Mr. Perez, the first spinout that he had, that
9 he ended up on the left-hand side of the two
10 lanes of traffic that were in that open tow
11 area, is that accurate?
12 A. Yes.
13 Q. That left-hand side, is it depicted on
14 this map and the scale of this map?
15 A. No.
16 Q. The point at which you would have made
17 impact with Mr. Perez, would that have been
18 then after that left-hand shoulder area that he
19 had been initially stopped at after his first
20 spinout?
21 MS. BENHAMOU: Objection to
22 form.
23 Q. (By Ms. Eli) Kiara, when he -- sorry,
24 let's strike that.
25 Kiara, Mr. Perez after his first spinout

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1 that he had made, or did he go back closer to
2 the toll area?
3 MS. BENHAMOU: Objection: Form,
4 but keep going.
5 A. Can you rephrase that?
6 Q. (By Ms. Eli) Sure. Okay. So Mr. Perez
7 is stopped, correct?
8 A. Right.
9 Q. And you are traveling forward, correct?
10 A. Right.
11 Q. At some point he cuts back into traffic,
12 correct?
13 A. Right.
14 Q. And you make impact with him, correct?
15 A. Right.
16 Q. When his vehicle comes to a stop, does
17 he travel backwards, or does he travel forward?
18 Do you push him backwards, or do you push him
19 forwards?
20 A. His vehicle ended up facing towards the
21 open toll.
22 Q. Right. And how -- if you could estimate
23 how many feet he traveled then -- no strike
24 that. That is difficult to say as well.
25 A. Yeah.

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1 Q. Okay. Kiara, if I were to represent to
2 you that this "X" that is marked right here on
3 the map is where Mr. Perez estimated his car
4 came to a rest after you had collided with him,
5 would you agree with the "X" that he provided
6 on this map?

7 A. No.

8 Q. Why not?

9 A. Well, he is too far, close to these
10 tolls here (indicating).

11 Q. So he was farther down off the map?

12 A. Yes.

13 Q. That's all I needed.

14 MS. BENHAMOU: Then for the
15 record, can we mark Kiara's drawing as Exhibit
16 2.

17 (Exhibit No. 2 was marked
18 for identification.)
19 (An off-the-record discussion
20 regarding exhibits took place
21 at this time.)

22 Q. (By Ms. Eli) Now, Kiara, we heard the
23 testimony yesterday from one of the nighttime
24 supervisors that discussed that K & B has in
25 place a relay system, do you recall that?

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1 A. Yes.

2 Q. Is it available if you are feeling too
3 ill or tired to complete a route?

4 A. Yes.

5 Q. Is it available if you encounter a
6 roadside accident or something that backs up
7 the time that you can complete a trip, is the
8 relay system available to you?

9 A. Yeah. Anytime you cannot make it
10 legally and the load cannot get there on time,
11 as long as you contact your dispatcher and let
12 them know at the earliest convenience, you can
13 get a relay.

14 MS. ELI: What was your
15 objection?

16 MS. BENHAMOU: I'm fine.

17 Q. (By Ms. Eli) Have you ever encounter a
18 situation at K & B in which a request for a
19 relay was denied?

20 A. I don't think so.

21 Q. Obviously --

22 A. I mean, there was one point where I
23 might have -- they could not find a driver for
24 me, and they just rescheduled the load.

25 Q. Okay.

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1 A. I'm very familiar with it, yes.

2 Q. Okay. And in your description, in your
3 own words, what is the relay system that is
4 employed by K & B?

5 A. Really depending on the situation, if
6 another truck had some type of mechanical
7 issues or if they were stuck at a shipper or a
8 receiver too long, and they didn't have no
9 hours, then somebody would be called. Or if
10 there is too many miles for when the load has
11 to be there, and you know you cannot drive it
12 legally, then somebody will be called. Like,
13 somebody will find another driver who can
14 complete that load for you. You will be asked
15 to either go to some type of destination --
16 like a Pilot or Flying J somewhere --
17 somewhere, and you will be asked to drive
18 whatever hours you have out left still legally,
19 and then you can switch the trailers. You will
20 either get another loaded trailer or an empty
21 trailer depending on whatever that trailer was
22 doing.

23 Q. Okay. Now in your experience, is this
24 relay system readily available to all K & B
25 drivers?

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1 A. I mean, rescheduling is like the last
2 resort, but they will reschedule if they cannot
3 find a relay.

4 Q. So if they cannot find a relay, you are
5 not then instructed that you are required to
6 complete the load, is that an accurate
7 statement?

8 A. What do you mean required?

9 Q. Well, if there is a reason why you
10 cannot complete the relay, whether you are
11 tired, you're sick, your hours are going to run
12 out --

13 A. Okay.

14 Q. -- is there anyone at K & B telling you,
15 well, you have to do it anyway?

16 A. Illegally?

17 Q. Yeah.

18 A. Like out of hours, no.

19 Q. In that same regard, have you ever been
20 threatened with termination if you are not able
21 to safely or legally complete a load?

22 A. No.

23 Q. Have you ever been threatened with a
24 dock in your pay for not being able to complete
25 a load on time?

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1 A. No.

2 Q. Have you ever been reprimanded in your

3 two years at K & B for not being able to

4 complete a load on time?

5 A. No.

6 MS. BENHAMOU: I'm going to

7 object to the last three questions as she has

8 already testified she has never not completed a

9 load on time.

10 Q. (By Ms. Eli) Have you ever been

11 reprimanded for requesting a relay that could

12 not be fulfilled?

13 A. No. As I know my job, I know what I can

14 and cannot do. I'm always paying attention to

15 my miles and my time so if I know I cannot do

16 it and get it there on time, then I will call

17 my dispatcher and let them know before they

18 have to tell me, I need a relay, it is not

19 going to get there on time, and then they will

20 get me a relay.

21 Q. Okay. Now, Kiara, we went through the

22 litany of your trip. I believe we came to a

23 conclusion based on your QTRACS that you left

24 Urbana at some point around 2:54 a.m. on

25 January 20, 2016, does that sound accurate to

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1 you know how many -- strike that.

2 This accident occurred at about 5:18 in

3 the morning, is that accurate?

4 A. I don't really know the time.

5 Q. Okay. All right. Kiara, I'm going to

6 show you a map that I printed off from Google

7 Maps, and we can mark this as our next exhibit.

8 I'll let you look at it first, and then show it

9 to counsel.

10 MS. BENHAMOU: Did we mark the

11 police report, Lamis, as Exhibit No. 3?

12 MS. ELI: We did not, but we

13 can. We will mark that as Exhibit No. 3.

14 MS. BENHAMOU: Police report No.

15 3, and this will be No. 4, the Google Maps.

16 MS. ELI: Yes.

17 (Exhibit Nos. 3 and 4 were

18 marked for identification.)

19 Q. (By Ms. Eli) Did you take a look?

20 A. Uh-huh.

21 Q. That map depicts on it where Urbana,

22 Illinois would be located, is that accurate?

23 A. Correct.

24 Q. Does it also indicate on it where the

25 Meijer Center in New --

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1 you?

2 A. Yes.

3 Q. Okay. And I think we also then looked

4 that your arrival time in Waterloo, Michigan

5 (sic) was scheduled for -- your delivery time

6 was scheduled for the following day on

7 January 21st at 4:00 a.m. eastern time?

8 A. Newport, Michigan.

9 Q. Newport, Michigan, sorry. Sorry, I did

10 write Waterloo right here. In Newport,

11 Michigan, that you had to be there on January

12 21st at 4:00 a.m. eastern, does that sound

13 familiar?

14 A. Yes.

15 Q. And we said 4:00 a.m. eastern is

16 3:00 a.m. central time?

17 A. Correct.

18 Q. So if you are leaving Urbana around

19 3:00 a.m. on the 20th, and you have to be in

20 Newport, Michigan at what would be 3:00 a.m.

21 central --

22 A. Correct.

23 Q. -- that is 24 hours, correct?

24 A. Correct.

25 Q. Kiara, when this accident occurred, do

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1 MS. BENHAMOU: Newport.

2 Q. (By Ms. Eli) -- Newport, Michigan would

3 have been as well?

4 A. Correct.

5 Q. And the route between Urbana and Newport

6 does that reflect the route that you would have

7 taken -- that you had intended to take for that

8 trip?

9 A. Yeah, that looks acceptable.

10 Q. Okay. If you flip to the next page.

11 All right. On Page 3 of this --

12 MS. BENHAMOU: Three of

13 Exhibit 4?

14 MS. ELI: Three of Exhibit 4.

15 Q. (By Ms. Eli) It starts out with the

16 directions leaving Urbana, is that accurate?

17 A. Yes.

18 Q. And if it continues onto the next

19 page -- the next two pages -- does it give you

20 then what the directions correspond to from

21 that map to end at the Meijer Distribution

22 Center when compared to the map?

23 A. Yes.

24 Q. On the top of the map for the route that

25 is shown from Waterloo all the way to the

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1 Meijer Distribution Center, what is the total
 2 drive miles and hours that it estimates it
 3 would take?
 4 A. It estimates 704 miles, 10 hours and
 5 48 minutes.
 6 Q. Okay. Now, I'm sorry that the map is
 7 not on here for Urbana to the Meijer
 8 Distribution Center, but you can see that in
 9 the different segments of the map that it
 10 provides the time estimated for travel, is that
 11 accurate?
 12 (An off-the-record discussion
 13 between counsel occurred at
 14 this time.)
 15 MS. ELI: Sorry, you can strike
 16 my last question.
 17 Q. (By Ms. Eli) Does it then show from
 18 Urbana all the way to the distribution center
 19 in different segments just how long the
 20 different segments would take, an estimate of
 21 time?
 22 A. It is generally about, I go for 60 miles
 23 an hour.
 24 Q. Okay.
 25 A. So for me, this would have been three

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1 complete, you estimate, the trip from Urbana,
 2 Illinois to Newport, Michigan?
 3 A. Yes.
 4 Q. Okay. Now, we just indicated that you
 5 had 24 hours to complete that trip, is that
 6 accurate?
 7 A. Yes.
 8 Q. Did you at any point prior to this
 9 accident -- so going from Urbana to, you know,
 10 the few hours before this accident occurred,
 11 did you at any point have any reason to doubt
 12 your ability to make it on time for that
 13 4:00 a.m. January 21st delivery?
 14 A. No.
 15 Q. Did you at any point think that you
 16 would have to violate the rules for complying
 17 with your logs --
 18 A. No.
 19 Q. -- to complete that trip? No, okay.
 20 Now, Kiara, we went through the federal
 21 regulation that is there in front of you when
 22 plaintiffs' counsel was asking you questions.
 23 Now, when it comes to complying with that
 24 regulation regarding driving in any sort of
 25 hazardous weather condition, what is your

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1 and a half, 3 hours and 42 minutes.
 2 Q. For this 162 miles?
 3 A. Right.
 4 Q. Okay. So 162 miles you said, what,
 5 three and a half?
 6 A. Three hours and 42 minutes. That is the
 7 way I would give myself time.
 8 Q. Okay. And then if we look at the second
 9 segment, where it is about 24.6 miles, what
 10 would you estimate the time would have taken
 11 you to travel that distance?
 12 A. Oh, probably half an hour.
 13 Q. Half an hour. Okay. So what are we at
 14 total then?
 15 A. 3.42, half an hour, we are at 4 hours
 16 and 15 minutes.
 17 Q. Okay. And then the next segment of it,
 18 the 191 miles, how long do you estimate it
 19 would take you to drive 191 miles?
 20 A. It was like 3 hours and 11 minutes.
 21 Q. Okay. So what would be a total from 4
 22 hours and 15 minutes?
 23 A. That is 7 hours and -- what did I say --
 24 26 minutes, so almost seven and a half hours.
 25 Q. So almost seven and a half hours to

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1 understanding as to who makes the call as to
 2 whether or not there is a hazardous driving
 3 condition?
 4 A. That would be me.
 5 Q. Okay. And can you tell me the process
 6 that would go into that decisionmaking?
 7 A. Visibility. If I can't -- so if I feel
 8 like I cannot stop, as further enough that I
 9 can see, like if I can only see 200 hundred
 10 miles -- or 200 feet, if I cannot stop then, if
 11 the conditions are really bad, like snowing
 12 heavily or if there is freezing rain, like it
 13 is just really, really bad, then I will call my
 14 -- well, I will stop first, and then call my
 15 dispatcher and tell him I am stopping.
 16 Q. Have you ever been in a situation where
 17 you have had to stop due to hazardous driving
 18 conditions?
 19 A. No. There has only been one time where
 20 I was told to stop, but there wasn't any
 21 hazardous conditions. It was just based off of
 22 this is coming, and I needed maintenance anyway
 23 so they just had me just stop.
 24 Q. And was that decision made by K & B?
 25 A. Uh-huh.

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1 Q. Yes?

2 A. Yes.

3 Q. Okay. So do you believe that on

4 January 20, 2016, when you were driving that

5 morning, that you were complying with this

6 federal regulation?

7 A. Yes.

8 Q. Okay. And could you estimate -- well,

9 first of all, was there snow, actual like snow

10 on the lanes of traffic that you were driving

11 in?

12 A. No.

13 Q. Was there snow on the shoulders at the

14 point that the accident occurred?

15 A. Could have been, but I'm not for sure.

16 Q. Okay. The ice that Mr. Perez hit --

17 scratch that.

18 You indicated that when you began to

19 slow down your vehicle, when you saw him spin

20 out --

21 A. Right.

22 Q. -- you started to feel a little bit of

23 the sliding --

24 A. Yes.

25 Q. -- on the road; is that correct?

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1 or anything like that?

2 A. No. Honestly, we are getting towards

3 the Chicago area so.

4 MS. BENHAMOU: We are getting

5 towards the Chicago area so?

6 THE WITNESS: We were getting

7 towards the Chicago area so if there was an

8 accident, it was probably because somebody was

9 rushing or not paying attention to what they

10 were doing. I didn't have any reason to

11 believe it was ice.

12 Q. (By Ms. Eli) Okay. Kiara, just to

13 confirm, you at no point during this entire

14 trip -- you know, strike that.

15 You indicated that you will put in the

16 coordinates or the destination on your Google

17 Maps on your phone, is that accurate?

18 A. Yes.

19 Q. And at what point do you do that?

20 A. Generally at the beginning or sometimes

21 I'm stopped and I don't really know what is

22 going on, I might look at Google Maps, but it

23 is not always.

24 Q. Okay. So is it fair to say that if you

25 had put in the coordinates on your phone that

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1 A. Correct.

2 Q. Had you felt that at any point prior in

3 the couple of hours that you had been driving

4 from Urbana to that point?

5 A. No.

6 Q. Had you felt that, would you have

7 stopped, would you have made any concessions or

8 anything like that, or changed anything about

9 how you were driving?

10 A. If I felt like my -- if I felt any type

11 of sliding or anything like that with my truck,

12 I would have slowed down a little bit more and

13 then tested it to see if it was just that

14 particular area that I just went through or if

15 it was just like I need to slow down period,

16 but I didn't feel anything.

17 Q. And that accident that you indicated you

18 had seen a few miles up the road, do you have

19 any idea what the cause of that accident was?

20 A. No. I came up to it when it was

21 already, you know, traffic was being diverted.

22 There was backed up traffic in the left two --

23 right two lanes.

24 Q. Okay. Do you have any reason to suspect

25 that it was related to ice or snowy conditions

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1 day, you would have done so prior to departing

2 from Urbana?

3 A. Yes.

4 Q. Between your departure or putting the

5 coordinates into your phone and this accident,

6 did you at any point have your cell phone in

7 use?

8 A. No.

9 Q. And just to confirm, do you wear like a

10 hands-free set or anything like that with your

11 cell phone?

12 MS. BENHAMOU: Objection. Asked

13 and answered.

14 Q. (By Ms. Eli) Go ahead.

15 A. No.

16 Q. So if somebody is trying to call you on

17 your cell phone while you are driving --

18 A. I have an auxiliary cord so everything

19 goes through the speakers of the entire truck.

20 Q. So if someone is calling you, you know

21 that someone is calling you?

22 A. Yes, from the speakers. Yeah.

23 Q. And are you able to answer it, or do you

24 -- do you answer it?

25 A. Sometimes. It just depends on who. If

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1 it is my sister, yes, and then I will speak to
2 her through the truck. I don't hold it in my
3 hands.
4 Q. It is a completely hands-free system?
5 A. Yes.
6 Q. At the time that the accident occurred,
7 were you speaking on your cell phone?
8 A. No.
9 Q. Were you texting on your cell phone?
10 A. No.
11 Q. Were you checking your cell phone for
12 coordinates?
13 A. No. I didn't have Google Maps up at
14 that time.
15 Q. Were you checking your phone for any
16 weather issues?
17 A. No.
18 Q. Were you checking your phone for any
19 traffic issues?
20 A. No.
21 Q. Is it safe to say you were not using
22 your phone at the time this accident occurred?
23 A. Yes.
24 Q. Now I believe you testified earlier that
25 you recall there being a drop in the speed

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1 A. Our trucks are governed. At that
2 particular time, my truck was governed at 64 so
3 it is not possible for me to go above -- well,
4 I could, but -- so I guess, yeah, if I wanted
5 to, I could since it was 55.
6 Q. So you know that the speed limit there
7 is 55?
8 A. Yes.
9 Q. Okay. And your truck at that point,
10 then, is able to operate up to 64 miles an
11 hour?
12 A. Yes.
13 Q. Do you believe that you were operating
14 at 64 miles an hour at that point?
15 A. No.
16 Q. Do you think you were operating at
17 60 miles an hour at that point?
18 A. No.
19 Q. What about 55?
20 A. I'm not for sure, but I know I wasn't
21 going faster than 60.
22 Q. When you first saw Mr. Perez's vehicle
23 spin out that first time, do you have any way
24 to estimate how far away he was from you
25 distance-wise?

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1 limit at some point prior to where this
2 accident occurred, is that accurate?
3 A. Correct, five miles.
4 Q. While you were driving and this pickup
5 truck was next to you on your left-hand side,
6 were you all driving at a comparable speed with
7 one another?
8 A. After I started really slowing down?
9 Q. No. Prior to when you see Mr. Perez
10 spinning out, you and the pickup truck, were
11 you all driving at the same speed, was he
12 driving faster than you?
13 A. He was driving slightly faster than me.
14 Q. So you were not passing him at any
15 point?
16 A. No.
17 Q. Are you able to make any estimate as to
18 what your speed was prior to seeing Mr. Perez
19 spin out?
20 A. No.
21 Q. Would you have been operating your
22 vehicle at a greater speed than what the posted
23 speed limit would have been?
24 A. No, I cannot.
25 Q. What do you mean you cannot?

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1 A. At the very least, at least eight
2 seconds.
3 Q. Okay.
4 A. So there was about a trucks' length
5 worth of space in-between us.
6 Q. Well, you indicated to me earlier that
7 it took you four rounds of braking and letting
8 go to catch up to where he was. So do you
9 think it was more than eight seconds?
10 A. It was definitely more than eight, but I
11 can say for sure I gave him the standard eight
12 seconds of space.
13 Q. Before he spun out --
14 A. Right.
15 Q. -- do you have any estimate as to what
16 his traveling speed was?
17 A. I think he was going slower than 55.
18 Q. Did he appear -- were you keeping the
19 same distance between the two of you? Do you
20 think he was going the same speed as you,
21 faster than you, slower than you?
22 A. In order for me to have caught up with
23 him at that particular speed, he was going
24 slower than me.
25 Q. Okay. Kiara, I just want to confirm,

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1 have you ever experienced a situation at K & B
 2 where you were encouraged or required to
 3 violate any of the federal rules that cover
 4 commercial vehicles?
 5 A. No.
 6 Q. Has K & B ever required of you to
 7 operate your vehicle at a speed that is higher
 8 than what is permitted in any jurisdiction?
 9 A. No. It is always at or below.
 10 Q. Have they ever required you to drive one
 11 of their motor vehicles in a manner that
 12 exceeds the maximum driving time that is
 13 federally permitted?
 14 A. No.
 15 Q. Have they ever required you to drive
 16 your motor vehicle in any hazardous conditions?
 17 A. Forced?
 18 Q. Yeah.
 19 A. No.
 20 Q. Kiara, I want to go through just to
 21 clarify something in your cell phone records
 22 and compare it as well to your driver logs, but
 23 I need to get all of that out. So just give me
 24 a second.
 25 I'll go off the record while I pull

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1 have to check in with a guard, and if I've
 2 never been there before, I would ask. Some
 3 places if there isn't a guard, there are signs
 4 that direct you. You need to either use your
 5 -- I can't even think of what it is called
 6 right now -- or you call on the phone. They
 7 give you a number, and then you check in that
 8 way.
 9 Q. Okay. So once you get to an area and
 10 you've gone through that gate --
 11 A. Right.
 12 Q. -- is it common then at that point, you
 13 would have reason to, you know, use a telephone
 14 either with regard to exactly where you are
 15 going or to which area of the property you need
 16 to go to?
 17 A. If there isn't a guard and there is no
 18 clearly marked signs for me, I will call
 19 shipping and receiving.
 20 Q. And will you still be in your vehicle
 21 when this occurs?
 22 A. Yes.
 23 Q. And do you stop your vehicle when this
 24 occurs?
 25 A. Yes.

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1 those out.
 2 MS. BENHAMOU: Okay.
 3 MS. ELI: We can go back on the
 4 record.
 5 Q. (By Ms. Eli) Kiara, I want you to look
 6 for January 20th. I know we kind of went
 7 through this -- between this as well as the
 8 QTRACS -- as to when you believe you arrived in
 9 Urbana and what, do you recall that?
 10 A. Yes.
 11 Q. Now, from the QTRACS -- I don't want to
 12 take a lot of time. Can I see that, Kiara?
 13 Okay. Kiara, I want you to take a look
 14 at one that you previously seen as Page 216
 15 from those QTRACS, was that one your arrival
 16 time as to when you got to Urbana?
 17 A. Yes.
 18 Q. And what time is listed on there?
 19 A. 2:01 a.m.
 20 Q. Can you just describe to me the general
 21 process when you get to a certain center, is it
 22 clearly marked where you need to go or where
 23 you need to be, or does it require some
 24 figuring out with an area?
 25 A. Generally, the first place you go is you

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1 Q. Okay. Kiara, I wanted to show you
 2 really quickly, these were the phone records
 3 that you provided to us that we produced in
 4 discovery. I'm referring to K & B page --
 5 Perez, underscore, K&B, Page 383. Kiara, if
 6 you look at the top left-hand side of this, is
 7 that your cell phone number?
 8 A. Yes.
 9 Q. And does this appear to be call logs
 10 that begin on January 19, 2016?
 11 A. Yes.
 12 Q. And with respect to the times that are
 13 indicated, can you read this line for me?
 14 A. Date and time.
 15 Q. Keep going.
 16 A. Number, description.
 17 Q. No, sorry. Sorry. This actual sentence
 18 that is up here (indicating).
 19 A. Oh, the date and time corresponds to the
 20 local time where the mobile was located.
 21 Q. Okay. So for instance, if we are
 22 looking at the very first entry from
 23 January 19, 2016, at 7:42 a.m., that is central
 24 time, correct?
 25 A. Correct.

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- 1 Q. Because you were in Illinois at that
2 point?
- 3 A. Correct.
- 4 Q. Okay. But if you look down just a few
5 rows, now the QTRACS that we looked at
6 indicated you arrived at the site at Urbana at
7 2:01 a.m. on the 19th; is that correct?
- 8 A. Correct.
- 9 Q. And that is central time, correct?
- 10 A. Correct.
- 11 Q. And that is the time zone that you were
12 in, correct?
- 13 A. Correct.
- 14 Q. Okay. So if we look at January 20,
15 2016, the first two entries, there is an entry
16 at 2:08 a.m. and 2:11 a.m., is that accurate?
- 17 A. Yes.
- 18 Q. Again, those are central time, correct?
- 19 A. Right.
- 20 Q. And there are two calls to the same
21 phone number, correct?
- 22 A. Correct.
- 23 Q. A 217 number; is that correct?
- 24 A. Correct.
- 25 Q. And the description of it, what does

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- 1 QTRACS show you in 231?
- 2 A. It tells me about my additional stop
3 here at the Super Value, the address, phone
4 number, the Bill of Lading, and the delivery
5 times.
- 6 Q. And why are you given a phone number in
7 there?
- 8 A. Just in case I need to contact somebody
9 with questions, or if I need a little bit more
10 information about directions.
- 11 Q. Okay. And that is a 217 number,
12 correct?
- 13 A. Correct.
- 14 Q. All right. Now, Kiara, then when you
15 got to that port in Urbana and you called those
16 two telephone numbers, do you have any idea who
17 the recipient of those two phone calls were?
- 18 A. I would have to say Super Value.
- 19 Q. And what makes you say that?
- 20 A. They have the same area code and the
21 same first numbers.
- 22 Q. And why would you have been calling
23 them, if you can recall?
- 24 A. If I was calling them because the
25 numbers are slightly different, I would have to

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- 1 that indicate in that?
- 2 A. It looks like to Champaign/Urbana,
3 Illinois.
- 4 Q. And it says that for both of them,
5 correct?
- 6 A. Correct.
- 7 Q. And were these calls that were placed?
- 8 A. Yes.
- 9 Q. Now, would these have been calls that
10 were placed after you had arrived at the
11 station in Urbana?
- 12 A. Yes.
- 13 Q. And this is before you had left Urbana,
14 correct, because I think we determined that you
15 didn't leave until almost 3:00 a.m.?
- 16 A. Correct.
- 17 Q. Okay. Would these have been calls that
18 you made to someone there in Urbana?
- 19 A. Yes.
- 20 Q. All right. Okay. Kiara, if I direct
21 your attention to QTRACS Page 231, this is a
22 page we previously discussed, correct?
- 23 A. Right.
- 24 Q. And in it, does it give you any
25 information -- well, what does this one -- this

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- 1 say that there was a sign that said I needed to
2 call to check in.
- 3 Q. Okay.
- 4 A. After I've gotten to a staging area.
- 5 Q. If I were to represent to you when I
6 call that number, a receiving area dispatcher
7 from -- at that Super Value in Urbana picks up,
8 do you have any reason to disagree with that?
- 9 A. No.
- 10 Q. Like if I were to pick up the phone and
11 call that, that is who would answer right now?
- 12 A. Yes.
- 13 Q. The phone calls that you made at that
14 point, are they in violation of anything that
15 K & B has trained you with respect to what you
16 do when you arrive at a destination?
- 17 A. No.
- 18 Q. You are permitted to make those phone
19 calls, correct?
- 20 A. Yeah.
- 21 Q. You are legally permitted to make those
22 phone calls?
- 23 A. Yes, especially since I'm on the
24 property, and I'm not like driving driving.
- 25 Q. Okay. Kiara, who conducts your reviews

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1 at K & B?

2 A. Probably safety.

3 Q. Do you know how often they review you at

4 K & B through safety?

5 A. I know at least once a year.

6 Q. Okay. Have you ever in your time at

7 K & B had any citations or any issues with

8 your reviews through safety?

9 A. No. They have always been just like,

10 sign here, you are okay.

11 Q. Got it. Following this accident that

12 occurred, I just want to go through your

13 reporting procedures to K & B. Are you -- as

14 part of your job description, are you required

15 to report an accident to K & B?

16 A. Yes.

17 Q. And what is that protocol?

18 A. Generally K & B protocol is I'm supposed

19 to call -- once I'm, you know, in the safe

20 area, call 911 first, and then you call K & B,

21 but I called K & B first and then 911.

22 Q. But you did call K & B as required?

23 A. Yes.

24 Q. Okay. Do you recall who you spoke with

25 when you first called K & B?

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1 like what do you mean?

2 Q. (By Ms. Eli) I mean, what is your

3 understanding as to how someone can violate the

4 two-strike rule? I'm not saying you violated

5 it.

6 A. Right.

7 Q. What do you as a driver have to do to

8 not violate that two-strike rule?

9 A. You would have to arrive late under your

10 own power. Like, if you chose to stop

11 somewhere for longer than you were supposed to,

12 or if you overslept, you take a nap or you

13 overslept, you just decided -- or you showed up

14 at the wrong place, you know, just anything

15 that is out of your control -- or that is under

16 your control and you still showed up late, then

17 that would be a problem.

18 Q. Okay. Kiara, what if you are involved

19 in a preventable accident, would that subject

20 you to any strike under that rule?

21 A. I'm not for sure.

22 Q. Okay. What if you have a moving

23 violation such as speeding?

24 A. Okay. Then yeah, I think you would be

25 at fault for that.

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1 A. Safety.

2 Q. And do you know who at safety?

3 A. No.

4 Q. Okay. Did you at some point speak with

5 Matt Tipton?

6 A. I can't say.

7 Q. Okay. We talked about you were shown

8 previously the two-strikes rule at K & B, do

9 you recall that?

10 A. Yes.

11 Q. And that, you know, if there are two

12 strikes against a critical -- or if there is

13 two strikes against you related to delivering a

14 critical customers' freight, it counts as a

15 strike against your record, is that proper?

16 MS. BENHAMOU: Objection.

17 Misstates the record.

18 A. I've not ever had that apply to me.

19 Q. (By Ms. Eli) Do you know -- without

20 looking at what the actual paperwork says, what

21 are instances that would subject a driver to a

22 reprimand under the two-strike policy?

23 MS. BENHAMOU: Objection. Asked

24 and answered.

25 A. Such as if they arrived late. I mean,

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1 Q. You would be at fault for that and would

2 you be subject to possibly the two-strike rule?

3 A. Possibly.

4 Q. But, again, you don't know because you

5 are not the one who is enforcing it?

6 A. Correct.

7 Q. Following this accident with Mr. Perez,

8 what was your -- strike that.

9 Following this accident and your

10 reporting with K & B, was there ever a

11 discussion with respect to fault as to what

12 occurred with the accident?

13 A. I don't think so. I probably just told

14 them, he spun out in front of me.

15 Q. Okay. So -- but you did tell them that

16 that's how the accident occurred, correct?

17 A. And I might have just shared that the

18 police officer didn't find me at fault, and he

19 didn't give me a ticket or anything so I don't

20 know if I was asked.

21 Q. Okay. So do you know, then, if K & B

22 had to do any sort of investigation or anything

23 like that, beyond that, as to how you told them

24 the accident occurred?

25 A. Probably.

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1 Q. Has anyone at K & B ever reported to you
2 or come back to you and said that this was an
3 accident that was your fault?
4 A. No.
5 Q. From your understanding, K & B
6 classifies this as a non-preventable accident
7 for you, correct?
8 A. Correct.
9 Q. And they do not hold you at fault?
10 A. Correct.
11 Q. They hold Mr. Perez at fault?
12 A. Correct.
13 MS. BENHAMOU: Objection.
14 Foundation, but go ahead. You said correct.
15 You are fast.
16 Q. (By Ms. Eli) Kiara, if you had to
17 describe the reputation of K & B with respect
18 to safety for drivers, how would you describe
19 it?
20 A. Call it drill safety. They push safety
21 a lot. For the -- be safe. Wear your
22 seatbelt. Drive at or below speed limit. Stay
23 in the right lane. Don't be getting over.
24 Watch your mirrors. Pay attention to the
25 people that are around you. Stay away from the

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1 drivers on the road?
2 A. Yes.
3 Q. Kiara, I want to ask you about, now you
4 said that there was daily morning messages that
5 are sent out regarding weather, is that an
6 accurate statement?
7 A. Yes.
8 Q. And are those messages that are sent
9 from like a national weather service, or are
10 they sent by someone at K & B?
11 A. Someone at K & B.
12 Q. And he does this everyday?
13 A. Everyday except Sundays.
14 Q. Except Sundays. Do you know the name of
15 the man that does it?
16 A. It always says Mike R.
17 Q. And Mike R. is?
18 A. I have no idea.
19 Q. Okay. But he is the one that sends them
20 everyday, correct?
21 A. Yes.
22 Q. Do his messages -- are they limited to a
23 certain part of the United States --
24 A. All over.
25 Q. -- or do they just generally cover --

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1 shoulder. Do not park at the entry and exit
2 ways. It is a lot.
3 Q. So safety for the drivers is hammered to
4 you guys?
5 A. Yes. You could kill somebody.
6 Q. Right. We went through the QTRACS. You
7 get multiple messages a day. Do you get safety
8 reminders on those QTRACS?
9 A. They are in the daily messages we get.
10 Every Monday, we get safety messages, and after
11 every message that recaps whatever we have
12 talked about with my dispatcher, it is always
13 drive safe. Deliver on time.
14 Q. With respect to the safety of the other
15 people on the road, you know other drivers,
16 construction crews, anything like that that
17 might happen, how would you describe K & B's
18 reputation?
19 A. Pay attention. Slow down. Give more
20 following distance. Move over. You know,
21 drive at or below speed limit.
22 Q. So would you agree with me that K & B
23 does have a policy of insuring safety --
24 A. Everybody.
25 Q. -- including the drivers, the other

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1 hang on. Make sure we get it clean on the
2 record.
3 Is it to a specific area, or is it to
4 all over the United States?
5 A. All over.
6 Q. Because there is K & B drivers all over
7 the U.S.?
8 A. Correct.
9 Q. So even if it were to mention anything
10 related to the weather conditions or the
11 temperatures in your region, it is not going to
12 give a comprehensive analysis of what is going
13 on specifically in your region?
14 A. No. It is generally, basically, high
15 points. Like if there is, you know, really bad
16 snow in the northwestern part, then it will
17 tell you there is sunshine down south, and
18 there is rain in the Midwest.
19 Q. So if you need to figure out, you know,
20 what the driving conditions or the weather
21 conditions are in the specific area, you are
22 going to be -- you are relying on external
23 weather reports, whether it is checking on your
24 phone or the radio or anything like that when
25 you are stopped, is that accurate?

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1 A. For me specifically?
 2 Q. Yes.
 3 A. I generally go by what the Qualcomm
 4 says, and I can just figure out on my own
 5 because, you know, the weather isn't that
 6 different between state to state. So if they
 7 said that there is a snowstorm from Nebraska to
 8 Iowa, well, then I know, and it is like really
 9 sunny now, I know it is going to come behind
 10 me. I just use a little common sense.
 11 Q. Okay. So if you got a message saying
 12 that there was light snow in an area, you can
 13 use that maybe to determine whether or not it
 14 is going to affect where you are driving?
 15 A. Yes.
 16 Q. But that is not determinative, correct?
 17 A. Correct. There was a time where there
 18 was supposed to be a really bad snowstorm
 19 between Nebraska and Iowa. I was not -- I knew
 20 it was behind me. I knew it was coming, but I
 21 never experienced it because I was in front of
 22 it, and I never saw anything while I was in
 23 Wisconsin. So I know it is there, and if I
 24 have to go back that direction, I know it is
 25 there.

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1 and answered.
 2 A. Yes.
 3 Q. (By Ms. Eli) Do you recall when the sun
 4 came up that morning?
 5 A. No. I mean, not really. Timewise, no.
 6 Q. Kiara, have you ever had to make a
 7 complaint at K & B about any of the dispatchers
 8 and the requirements that they have set on you?
 9 A. No.
 10 Q. Kiara, the orientation and the training
 11 process at K & B, do you recall how long the
 12 orientation itself took?
 13 A. I think maybe three days.
 14 Q. Okay. And then how long until you were
 15 permitted to drive on your own?
 16 A. I think maybe that third day I was
 17 assigned a truck, and I think that maybe that
 18 night or that very early next morning, I was
 19 given my first load.
 20 Q. Okay. Kiara, you may have been asked
 21 this before and I apologize, you don't know
 22 what happened to the freight that you were
 23 hauling after it got took, correct?
 24 A. Correct.
 25 Q. K & B stresses that things be delivered

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1 Q. So safe to say that whatever is going to
 2 happen with the weather, you are in the best
 3 position to know where you are driving and what
 4 the conditions are going to be?
 5 A. Everyday. If there is a really bad
 6 storm, we get multiple weather alerts
 7 throughout the day. So for that particular
 8 storm I'm speaking of, I had multiple weather
 9 alerts.
 10 Q. Do you know what time Mike R., does he
 11 generally send his messages on a particular
 12 time of day?
 13 A. Between 5:45 and 6:00 a.m.
 14 Q. And if I were to represent to you that
 15 this accident occurred at 5:18 a.m., would you
 16 have gotten a message yet from him that
 17 morning?
 18 A. No. Yesterday's would have been applied
 19 until he sent a new one.
 20 Q. So you would have relied on the one from
 21 the 19th?
 22 A. Right.
 23 Q. Okay. Kiara, was it still dark out when
 24 the accident occurred?
 25 MS. BENHAMOU: Objection. Asked

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1 on time, is that an accurate statement?
 2 A. True, but it is also an industry
 3 standard.
 4 Q. Industry standard, okay. Why is that an
 5 industry standard?
 6 A. There are so many distribution centers,
 7 everything needs to come in a timely manner.
 8 They cannot just have multiple trucks arriving
 9 late. You know, that slows down production.
 10 So everybody has an appointment. You need to
 11 show up. Some places are okay with earlier
 12 than the hour, but generally it is an hour or
 13 less.
 14 Q. So aside from it being an industry
 15 standard, why do you believe that on-time
 16 deliveries are also a K & B standard?
 17 A. Well, it also costs money if you are
 18 late. You could if you have a culture of
 19 constantly having late delivers, then you could
 20 lose your customer.
 21 Q. Kiara, just to confirm, have you ever
 22 met -- obviously, you met Mr. Perez at the time
 23 of the accident. Did you ever meet his spouse,
 24 Dee Perez?
 25 A. I didn't know he was married, no.

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1 MS. ELI: Okay. I think that is
2 all that I have at this point. I'll hand you
3 back to Hadas.

4 MS. BENHAMOU: Sure. So I would
5 like to mark your cell phone records. I
6 believe we are on four --

7 THE COURT REPORTER: Five.

8 MS. BENHAMOU: Five, thank you.
9 As Exhibit 5, please, and, Kiara --

10 MS. ELI: Just make sure that
11 there are all of them, just whichever ones you
12 want. I just don't know if I gave you guys all
13 of the pages because my stuff is kind of mixed
14 up. But I have no problem, like, with
15 supplementing it or from what we have in
16 discovery.

17 MS. BENHAMOU: I think you gave
18 her all and more. So here is that.

19 (Exhibit No. 5 was marked
20 for identification.)

21 MS. BENHAMOU: Perfect.

22 REDIRECT EXAMINATION

23 BY MS. BENHAMOU:

24 Q. I want to go back to Page 383, which we
25 looked at, and it documents your talk time; is

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1 says on the piece of paper.

2 Q. (By Ms. Benhamou) And do you have any
3 reason to dispute that that number I just read
4 off is the K & B switchboard?

5 A. No.

6 Q. Does it make sense to you since you've
7 already testified that you first called K & B,
8 and then you called 911, does it make sense
9 that in the order reflected on your Team Mobile
10 records shows that you first called K & B at
11 5:19, and then you called 911 at 5:23?

12 A. Correct.

13 Q. And that is accurate, yes?

14 A. Yes.

15 Q. Okay. Great. And then just for
16 clarity, we discussed how the number reflected
17 in the QTRACS is not the exact same number as
18 this 217 number on the Team Mobile records.
19 Could you do me a favor and read for me the
20 actual number on the QTRACS records, which is
21 Page 231.

22 A. It is area code 217-384-2771.

23 Q. Great. And can you read for me the
24 number that you actually called based on your
25 Team Mobile records, which is Bates stamped

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1 that correct? Unless you don't know what I
2 mean by talk time, and I can clarify that.

3 A. You mean like minutes?

4 Q. No, I mean times you were actually
5 either receiving calls or making calls, fair?

6 A. Yes.

7 Q. So on Page 383, I want to take you to
8 January 20, 2016, at 5:19 a.m., okay. Do you
9 see where that is?

10 A. Right.

11 Q. And would you agree that the number next
12 to the time stamp is a K & B number?

13 A. It could be.

14 Q. If I show you Answers to Supplemental
15 Discovery the plaintiff submitted to defense
16 and defense answered on February 12, 2018, we
17 received responses to discovery which
18 identified that number that you called at
19 1/20/2016 at 5:19 a.m. and the number is
20 866-414-4280 --

21 A. It was just K & B main switchboard.

22 THE COURT REPORTER: I'm sorry,
23 I can't hear the witness.

24 THE WITNESS: It was just the K
25 & B main switchboard. At least that's what it

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1 383?

2 A. It is area code 217-384-2733.

3 Q. Okay. All right. Now, we can move away
4 from your cell phone records, and I want to ask
5 you in the moments before the collision
6 actually occurred, you said that you made eye
7 contact with Mr. Perez, correct?

8 A. Correct.

9 Q. And you were able to tell that he had
10 come to a complete stop all the way on the left
11 -- the left, not median, the left --

12 A. -- shoulder.

13 Q. Yes, thank you. The left shoulder, that
14 is correct?

15 A. Correct.

16 Q. And you were able to make eye contact
17 with him and appreciate that he came to a full
18 stop while performing your brake procedure?

19 A. At this point, once he came to a
20 complete stop, I stopped. I didn't feel like
21 there was a need to continue because he
22 stopped.

23 Q. Got it.

24 A. So I felt like we were all good.

25 Q. So the truck next to you in the left

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1 Lane had stopped driving?
 2 A. No. He stopped the weird swerving.
 3 Q. So he continued to drive?
 4 A. Yes. He just kept pace with me at this
 5 point.
 6 Q. Got it. And Mr. Perez is stopped in the
 7 left --
 8 A. -- shoulder.
 9 Q. -- shoulder, thank you. Stopped on the
 10 left shoulder, and now you are no longer doing
 11 your braking situation?
 12 A. Right.
 13 Q. And are you accelerating at this point?
 14 A. No. My foot stayed off the gas pedal.
 15 Q. Okay. But it is not on the brake pedal
 16 either?
 17 A. Right. I'm just letting the truck slow
 18 down on its own.
 19 Q. Got it. Got it.
 20 Okay. And the reason that you stopped
 21 putting pressure on the brake pedal was because
 22 like you said, you thought he had stopped and
 23 got out of the way?
 24 A. Yes. It is not safe to stop in a road.
 25 Q. Right.

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1 you like, you will pick up speed.
 2 Q. And accelerate over the governed speed?
 3 A. Yes.
 4 Q. But you would always put on the brakes
 5 when you are going down the hill, correct?
 6 A. Or the engine brake.
 7 Q. Okay. Got it. So you take measures to
 8 precaution against potentially going over the
 9 governed speed, even if your vehicle was to go
 10 over the governed speed?
 11 A. Correct.
 12 MS. BENHAMOU: Fantastic. I am
 13 all set.
 14 MS. ELI: Let's take a
 15 five-minute break. I just want to make sure I
 16 have everything, and then we can conclude.
 17 (A brief recess was taken
 18 at this point in time.)
 19 MS. ELI: We can go back on the
 20 record.
 21 **RE-CROSS-EXAMINATION**
 22 BY MS. ELI:
 23 Q. All right. Kiara, just to confirm,
 24 you've never had your license revoked, is that
 25 accurate?

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1 Kiara, you are still employed by K & B
 2 today, correct?
 3 A. Right.
 4 Q. And you like working for K & B, correct?
 5 A. Correct.
 6 Q. You are satisfied with your pay rate?
 7 A. Yes.
 8 Q. And you are not currently seeking new
 9 employment; is that correct?
 10 A. Correct.
 11 Q. Okay. And then finally your speed you
 12 mentioned is governed at 64 miles per hour?
 13 A. Correct.
 14 Q. By "governed," it means that you cannot
 15 go above 64 miles per hour?
 16 A. Correct. It doesn't matter pedal or
 17 cruise control.
 18 Q. And it doesn't matter if you are on a
 19 hill, going down a hill?
 20 A. That is different.
 21 Q. Tell me what happens when you go down a
 22 hill?
 23 A. If you do not apply the brakes and keep
 24 your truck slowed down, it doesn't matter if
 25 you are governed or free to go whatever speed

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1 A. Correct.
 2 Q. And you've never had your license
 3 suspended, is that accurate?
 4 A. Correct.
 5 MS. ELI: All right. Those are
 6 the only questions I have for you.
 7 MS. BENHAMOU: I have nothing
 8 further. Thank you.
 9 MS. ELI: All right. So, Kiara,
 10 the same thing like we said yesterday with
 11 Chris, you can waive your signature. I'll look
 12 through it to make sure everything is spelled
 13 correctly and properly, and that is for our own
 14 purposes, but you can't change any of your
 15 questions -- or any of the answers, is that
 16 okay to waive signature?
 17 THE WITNESS: That's fine.
 18 (At 12:25 p.m. the deposition concluded.)
 19
 20
 21
 22
 23
 24
 25

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1 C-E-R-T-I-F-I-C-A-T-E

2 STATE OF NEBRASKA)
3 : ss.
4 COUNTY OF SAUNDERS)

5 I, Angela M. Ickler, General Notary
6 Public in and for the State of Nebraska, do
7 hereby certify that KIARA WHARTON was by me
8 duly sworn to testify the truth, the whole
9 truth and nothing but the truth, and that the
10 deposition by her as above set forth was
11 reduced to writing by me.

12 That the within and foregoing deposition
13 was taken by me at the time and place herein
14 specified and in accordance with the within
15 stipulations; the reading and signing of the
16 witness to her deposition having been waived.

17 That I am not counsel, attorney, or
18 relative of either party or otherwise
19 interested in the event of this suit.

20 IN TESTIMONY WHEREOF, I have placed my
21 hand and notarial seal the 9th day of April,
22 2018.

23 Angela M. Ickler, RPR

24
25

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